## NC

Text: Developing countries should use regulatory penalty defaults to prioritize environmental protection over resource extraction when the two conflict.

Standard command-and-control environmental regulations fail. 5 warrants.

**Wyeth 6** writes[[1]](#footnote-1)

Critiques of environmental regulation abound,3 " and it will not be possible to do them full justice here. The most longstanding arguments focus on the efficiency (or lack thereof) of so-called "command-and-control" regulation. Standard-model analysis tends to focus especially on the tradeoff between environmental and economic values, which are assumed to be largely in conflict." Thus, there is an immense literature debating whether environmental regulations are unduly costly relative to the benefits they achieve.34 Alternative-model thinking tends to focus more heavily on another form of inefficiency: whether regulations overlook opportunities to achieve benefits that could be attained at a reasonable cost. There are a variety of reasons to believe that this could be the case. **First**, it is widely asserted that **regulations make it** more **costly** than necessary **to achieve** desired **environmental goals**, **because regulations are unduly prescriptive about the means by which to comply**." While this argument is often used by standard-model critics of regulation, alternative-model proponents focus on the potential for redesigning regulations to reduce cost and improve performance at the same time. A short digression on the role of cost in alternative-model thinking may be warranted here. Redesigning regulation to be less expensive is often seen as a concession to industry; in fact, under the standard model, cost and protection are generally assumed to be directly related, so that efforts to find cheaper options are typically perceived as sacrificing environmental goals. This aspect of the alternative model tends to attract claims that it is a cover for backsliding on environmental protection. However, advocates of flexibility see cost savings as potentially leading to improved environmental performance in the long run. Just as developing a cheaper way of producing any other good will likely make it more widely used, they believe **reducing** the marginal **cost of environmental protection should** eventually **allow more ambitious targets to be set**.36 One of the most important questions to ask as we actually test alternative-model strategies is whether this proves to be true, or whether "performance-based" rules simply reduce the cost of achieving the same environmental goals.37 A **second** limitation on **regulation** is that it **emphasizes uniformity** and does not encourage or reward performance beyond what is mandated.3" Standards are set for large categories of regulated entities, but due to variations among firms it is likely that some could achieve greater environmental benefits at reasonable costs.39 Once the standard is in place, **it creates no pressure to achieve beyond that regulated standard**. Furthermore, a static, uniform standard creates no incentive to find new technologies or strategies for achieving additional benefits at reasonable cost.4" **Third, regulations** do not address all potential strategies evenhandedly. They tend to **emphasize tech**nologies **for treating pollution once it has been created, and** to **overlook "pollution prevention" strategies such as redesigning products or production processes**.41 Although pollution prevention can be highly cost-effective (it can even save money or have other business advantages), it is difficult to mandate because it is complex and affects fundamental decisions within regulated organizations. **Strategies for changing the** very **nature of production often grow in an organic way out of** the **business** strategies and culture of particular those seeking to reduce acid rain were able to obtain more stringent limitations on emissions organizations.42 Products can also be difficult to regulate for the same reason; for example, cars and pesticides that are made by relatively few manufacturers and sold in a national market can be centrally regulated, but controlling the makeup and design of many other products is far too cumbersome. a3 End-of-pipe controls, on the other hand, are easier to impose uniformly because they fall outside the core business and production processes," even though they generally do not create any incentive to reduce the generation of pollution.45 A **fourth** limitation is that **rules** may create procedural hurdles that are barriers to environmentally desirable actions. For example, pollution prevention can be done most effectively when it is relatively easy to change production processes. However, such changes **may trigger permitting requirements that create delays and administrative burdens**.4" As a result, **environmental benefits may be postponed or foregone** entirely.47 **Finally, regulations have limits when it comes to controlling very small sources** (**which can have significant** cumulative **impacts**) or individual behavior. For example, small farms can be significant contributors of pollution to both water and air." However, the **cost of administration and enforcement becomes prohibitive** in these cases **because of the sheer number** of sources **and** their **potential diversity**. Furthermore, it is easier to achieve consensus on controlling large businesses than small ones, and regulation of individual behavior is rarely popular.49

Business oriented environmental protection is net beneficial.

**Wyeth 6** writes[[2]](#footnote-2)

In addition to highlighting the limitations of regulation, alternative model thinking also puts greater reliance on the potential for business to solve environmental problems.5" Properly motivated, **businesses can develop better strategies for addressing environmental problems than the government because they know more about their own activities**.5' Not only can they find better ways of controlling pollution, but (more importantly) **they can take more fundamental steps such as redesigning products or production processes** to use less toxic materials, generate less waste, or create less long-term risk.52 Thus, for those who are serious about committing to sustainability, it is important to free the organization to use its resources and expertise to attack its environmental problems more creatively and effectively.53 Proponents of the alternative model criticize **the regulatory approach** for **creating** a **passive "compliance"** culture among business managers. 4 **If the role of business is** defined in terms of **complying with rules, business is unlikely to take leadership in** the **areas where regulation falls short**. In the competition for corporate resources, expenditures to comply with the law have a much higher chance of approval than investments in other environmentally beneficial activities.56 This effect is greatest on those staff who are specifically responsible for environmental management. 5" Ironically, when organizations have made visible commitments to major improvements in their long-term environmental performance, the impetus has usually come from senior business managers, not the environmental staff.58 This corporate culture can be mirrored by agency staff, who define their roles as in terms of keeping business "in line" and have little interest in looking for environmental solutions other than those in the regulations. In this view, the regulatory culture in agencies is one primarily of 'harm prevention' rather than continuous improvement.59 The obvious objection to relying on business to develop better solutions is that while it may have the expertise, it lacks the proper motivation. If businesses were natural environmentalists (or environmental costs were fully internalized), we would not need environmental laws in the first place. Proponents of the alternative model are not utopians, however.6 " One of the principal insights that has fueled thinking about new regulatory approaches is an evolving view of organizational motivation. First, we increasingly recognize that actions taken for business reasons may also be good for the environment: reducing pollution saves money because it means fewer materials purchased that do not end up in valuable products; reducing energy or water consumption can cut costs; and even steps as simple as replacing old production units with new ones may reduce waste.6 Some organizations aggressively pursue these possibilities, with environmentally beneficial results.62 Furthermore, regulated organizations have increasingly adopted proactive rather than reactive environmental strategies, ranging from systematic self-auditing to adoption of comprehensive environmental management systems. They are not necessarily being altruistic; they are likely driven in part by factors such as fear of regulation (either current or anticipated future regulation), fear of tort liability, bad publicity, or community pressure." However, these organizations choose to address such risks by identifying their environmental issues and attacking them aggressively rather than by avoidance or passive compliance.6" Such firms design their own strategies for environmental control,66 and are likely to develop expertise in finding business-environment synergies.67 Often, in fact, it is difficult to say whether a particular action by such organizations is primarily motivated by environmental or business concerns.68 In some cases (probably a small share of the business universe), firms have gone even farther and made significant environmental commitments, going well beyond what is required by law. For example, a growing number of major firms have committed to significant reductions in greenhouse gases.6 Again, the underlying motive may be fear of future regulation or of bad publicity from environmental groups, which may help explain why it is often large and highly-visible companies that make such commitments. However, such behavior suggests at least a broader and more forward-looking sense of 'self-interest' than the standard model typically assumes.7 ° Even if the standard model is correct in assuming that business and environmental goals conflict, the line between what a corporation does in its own self-interest, and what it does in the public interest, becomes increasingly blurry. Furthermore, it is clear that firms behave differently in the extent to which they adopt a broad view of selfinterest, a difference that may have implications for public policy.7 When these possibilities are taken into account, a more complex picture emerges. On one hand, regulation is undoubtedly a principal force driving better environmental results. 2 At the same time, if some regulated firms take the initiative to develop their own solutions to environmental problems, it is possible that **regulatory strictures** designed to control pollution sources **may** have the inadvertent effect of impeding desirable behavior.73 They **emphasize control and uniformity rather than continuous improvement;** they focus on certain types of beneficial activity more than others; **they may emphasize what to do rather than what goals to aim for; and they may impede desirable action**. Thus, an exclusive emphasis on regulatory compliance might create a reactive, passive corporate culture and actually stand in the way of the environmental leadership that some firms are willing to provide.

California proves. Penalty default rules are key to business oriented EP and solve the environment. **Karkkainen 6** writes[[3]](#footnote-3)

In 1986, **California** adopted a ballot initiative popularly known as **Prop**osition **65**, officially known as the Safe Drinking Water and Toxic Enforcement Act.44 Proposition 65 **requires businesses to give “clear** and reasonable **warning” to anyone they expose to** listed **carcinogens and** reproductive **toxins**.45 **Failure to give adequate warning may result in stiff civil penalties** enforceable by the attorney general or by citizen suit46 **unless “the person responsible can show that** the **exposure poses no significant risk**.**”**47 Implementing regulations define “significant risk” for carcinogens as a one-in-100,000 risk of cancer, assuming a lifetime of exposure.48 The effect of Proposition 65, then, is to place the burden on businesses to determine when exposures above a minimum risk threshold may occur, and it requires businesses to warn those likely to be exposed or, alternatively, to take preventive action to reduce exposures below the actionable risk threshold.49 **This reverses the usual regulatory presumption that chemical** releases and **exposures are permissible unless a regulation specifically provides otherwise**. It also shifts the burden of producing the information needed to determine whether a particular level of emissions is permissible from the regulatory agency to the regulated industry. Most commentary on Proposition 65 focuses on the ubiquitous warning labels it generates—whether these warnings are an effective and responsible means of informing the public of toxic hazards and whether such warnings create the proper incentives for businesses to reduce toxic exposures to optimal levels.50 The evidence suggests that Proposition 65 warning labels affixed to consumer products have prompted consumers to avoid some products labeled hazardous, leading product manufacturers to alter some product formulations.51 The effects of Proposition 65 warnings on environmental exposures are murkier, however. Environmental exposure warnings typically consist of newspaper advertisements, mass mailings to affected communities, or signs posted at the fence line of a polluting facility.52 The effectiveness of these means of communicating environmental risk is questionable. 53 Yet, **many** observers **credit Prop**osition **65 with playing a significant role in reducing** environmental releases of listed **pollutants**.54 One explanation for this seemingly anomalous result is that in the environmental pollution context warnings appear to do little of the actual work. Instead, **legal uncertainty concerning** the **adequacy of warnings drives** toxic **polluters**. Because environmental exposure pathways may be difficult to trace, the manager of a polluting facility may be uncertain about who is exposed, the level of exposure, the size of the exposed area, and the best method to communicate warnings to the entire class of exposed persons within that area. The statute demands “clear and reasonable” warnings to all exposed persons, but it does not define what constitutes clear and reasonable warning. Implementing regulations authorize a variety of methods for warning of environmental exposures: warning signs “in the affected area,” public media advertisements “which target the affected area,” and mass mailings to “occupant[ s] in the affected area.”55 But the polluter must determine the “affected area” and choose the “most appropriate” of these methods under the circumstances, and the warning must be provided “in a conspicuous manner and under such conditions as to make it likely to be read, seen or heard and understood by an ordinary individual in the course of normal daily activity.”56 These highly indefinite standards leave ample room for case-bycase litigation over the adequacy of any particular warning. Polluters relying on newspaper advertisements and mass mailings, for example, have faced legal challenges arguing that their warnings reached an insufficient number of people or targeted the wrong communities. 57 Under California law, these are questions of fact for jury determination. 58 In principle, **toxic polluters can avoid** these **warning requirements if they reduce pollution below the “no significant risk” exposure threshold**.59 However, the complex risk assessments necessary to de termine whether pollution exceeds this threshold often lie beyond the scientific and technical capabilities of the ordinary polluting facility. Moreover, given the scientific uncertainties surrounding toxic risks, risk assessments are open to dispute and legal challenge. In addition, California law holds that in a lawsuit based on alleged failure to warn, the burden of proving no significant risk lies with the defendant60 who must demonstrate that the exposure “poses no significant risk . . . based on evidence and standards of comparable scientific validity to the evidence and standards which form the scientific basis for the listing of such chemical.”61 As Proposition 65 co-author David Roe explains, “Scientific uncertainty results in legal uncertainty for private industry.”62 Just when things look bleakest from the toxic polluter’s perspective, however, Proposition 65 throws out a lifeline. It authorizes (but does not require) a regulatory agency, the Office of Environmental Health Hazard Assessment (OEHHA), to establish numerical exposure standards that will be deemed to meet the no significant risk test.63 By voluntarily meeting these numerical standards, toxic polluters can avoid the duty to warn and inoculate themselves against liability for failure to warn adequately. However, OEHHA must first promulgate the numerical standards. **This gives** toxic **polluters** in California an unusual **incentive to cooperate with** state **regulators in** setting, **justifying, and defending** numerical **regulatory standards and** to produce and **disclose as much credible** toxicity and **exposure information necessary to enable regulators to implement these** regulatory **standards**.64 Under Proposition 65, California has managed to establish nearly three hundred regulatory standards for toxic pollutants, operating at a far faster pace and lower administrative cost than conventional regulatory approaches, in large measure due to the extraordinary degree to which California industries have cooperated in the standard-setting process.65 Proposition 65 uses a creative penalty default approach to advance environmental regulation. **Under conventional approaches, the regulatory agency bears the burden of producing** the **info**rmation necessary to justify regulation, **and polluters have a perverse incentive not to** produce or **reveal toxicity** and exposure information **that might lead to regulation**.66Proposition 65 reverses the incentive, adopting a background rule intentionally designed to be unpalatable to polluters—specifically, **a broad and indefinite duty to warn coupled with stiff liability** for breach of that duty. Against this harsh backdrop of uncertain and potentially large-scale liability, Proposition 65 **invites polluters to contract around the penalty provision by cooperating with regulators**: first, **by revealing** (and if necessary by generating) **info**rmation needed to establish health-protective numerical regulatory standards, **and then** by **voluntarily reducing emissions** below the established numerical thresholds. **The** Proposition 65 **penalty default rule thus exhibits** both **an information-**forcing **and** an **action-forcing character.**

# Frontlines

## Voluntary Good

Voluntary regulations solve the environment. Mandatory command and control regulations fail.

**EC 10** writes[[4]](#footnote-4)

The researchers identified two main forms of regulation: 1. **Command-and-control legislation specifies how companies must reduce their environmental impacts**. For example, through the use of end-of-pipe technologies to reduce pollution in water and waste treatment. 2. **Voluntary norms allow** greater **flexibility and freedom, encouraging** proactive **environmental management** usually **through** the **rethinking** of **production processes**. Examples are eco-management and audit schemes, such as the EU’s EMAS1 , and eco-labeling. The researchers mapped the relationships between the following properties of a company: managerial attitude towards the environment, adoption of environmental practices, command-and-control regulation, voluntary standards, competitive advantage gained from costs, competitive advantage gained from differentiation in the market, financial performance and company size. To evaluate the strengths of the relationships between these different elements the **researchers surveyed 208 Spanish firms**. These were all firms affected by the Integrated Pollution Prevention and Control law in Spain (Act 16/2002), which seeks to reduce and control pollution through a balance of legal imposition and self-regulation. The **results indicated that** environmental regulation stemming from **command-and-control legislation has no effect on** managerial attitude or **environmental management, and may be perceived as a threat**. For example, environmental regulation associated with **end-of-pipe techniques may be seen as a threat as these** technologies **can be easily copied** and implemented **by competitors**. In contrast, **when regulation stems from voluntary norms it has positive effects on** attitude and **management**. Furthermore, the management’s commitment to the environment can support long-term business success, through cost savings and increased sales, and could possibly lead to competitive advantages. There were two types of link between proactive environmental management and financial performance. The first was indirect via a competitive advantage. The second was a direct, two-way link, where proactive environmental management influences financial performance, by making the production process more efficient, and financial performance can promote environmental management, partly because firms with good financial performance can afford to invest in new environmental technologies and activities. The researchers suggested that more relationships should be two-way, for example, between environmental regulation and managerial commitment to the environment. The **results indicated that managers should see voluntary norms as a way to enhance their competitive position. This can happen through improved reputation and development of green products**, for example. The researchers pointed out a number of limitations to the study. It relied on self-reported measurements by firm managers and did not consider the type of industry or firm-specific information, such as plant age.

## AT Profit Motive

Profit motive solves the environment. **Wyeth 6** writes[[5]](#footnote-5)

The obvious objection to relying on business to develop better solutions is that while it may have the expertise, it lacks the proper motivation. If businesses were natural environmentalists (or environmental costs were fully internalized), we would not need environmental laws in the first place. Proponents of the alternative model are not utopians, however.6 " One of the principal insights that has fueled thinking about new regulatory approaches is an evolving view of organizational motivation. First, we increasingly recognize that **actions taken for business reasons may** also **be good for the environment: reducing pollution saves money because it means fewer materials purchased** that do not end up in valuable products; **reducing energy** or water **consumption can cut costs**; and even steps as simple as replacing old production units with new ones may reduce waste.6 Some organizations aggressively pursue these possibilities, with environmentally beneficial results.62 Furthermore, **regulated organizations have increasingly adopted proactive** rather than reactive environmental **strategies, ranging from** systematic **self-auditing to** adoption of **comprehensive environmental management** systems. They are not necessarily being altruistic; they are likely driven in part by factors such as fear of regulation (either current or anticipated future regulation), fear of tort liability, bad publicity, or community pressure." However, these **organizations choose to address** such **risks by** identifying their environmental issues and **attacking them aggressively rather than** by avoidance or **passive compliance**.6" Such firms design their own strategies for environmental control,66 and are likely to develop expertise in finding business-environment synergies.67 Often, in fact, it is difficult to say whether a particular action by such organizations is primarily motivated by environmental or business concerns.68 **In some cases** (probably a small share of the business universe), **firms have gone** even farther and made significant environmental commitments, going **well beyond what is required by law**. For example, a growing number of major firms have committed to significant reductions in greenhouse gases.6 Again, **the underlying motive may be fear of future regulation or of bad publicity from environmental groups**, which may help explain why it is often large and highly-visible companies that make such commitments. However, **such behavior suggests** at least **a** broader and **more forward-looking sense of 'self-interest' than the standard model typically assumes**.7 ° Even if the standard model is correct in assuming that business and environmental goals conflict, the line between what a corporation does in its own self-interest, and what it does in the public interest, becomes increasingly blurry. Furthermore, it is clear that firms behave differently in the extent to which they adopt a broad view of selfinterest, a difference that may have implications for public policy.

## AT Perm: Do the CP

Mandatory legal rules are normal means and distinct from penalty default rules.

**Karkkainen 6** writes[[6]](#footnote-6)

The pioneering work of Ayres and Gertner in contract theory suggested that penalty default rules can create powerful incentives for parties to bargain for explicit contract terms and in the process force disclosure of asymmetrically held information necessary to an efficient contract.27 In contract theory, a penalty default rule is a gap-filling rule that intentionally imposes a harsh outcome on one or more parties, thereby creating an incentive to contract around the default rule in favor of an explicit alternative contract term.28 Ayres and Gertner argued that penalty default rules are especially appropriate in the context of information asymmetry, where the goal is to enhance efficient contracting by eliciting privately held information that one party might otherwise decline to reveal for strategic bargaining reasons. Their example-in-chief is Hadley v. Baxendale, 30 a nineteenth century contract case in which a miller sued a shipper to recover the lost profits resulting from delayed shipment of a replacement crankshaft necessary to run the mill.31 The court ruled that consequential damages could not be recovered absent a showing that the defendant was aware of special circumstances that might give rise to such damages.32 This, Ayres and Gertner argued, is a penalty default rule.33 Although the miller (and other similarly situated parties) would prefer a rule allowing consequential damages for undisclosed risks, that rule would allow ultrasensitive parties to shift the risk to an unsuspecting shipper simply by remaining silent about their unusually large potential losses. Under the Hadley rule, ultrasensitive parties are penalized for nondisclosure. Consequently, they will either disclose to enable consequential damages under the Hadley default rule or bargain around the default rule to reach an explicit alternative contract damages term. In the course of that bargaining, the shipper is almost certain to demand disclosure of the extent of its potential liability. Because penalty default rules create an incentive to disclose this somewhat asymmetrically held information, Ayres and Gertner described them as information-forcing.34 Unlike contract law, which consists primarily of interpretive or gap-filling default rules that apply in the absence of an explicit contract term,35 **environmental regulation typically starts from** the premise that **mandatory legal rules** are required to alter the behavior of self-interested parties who otherwise would be inclined to externalize the environmental costs of their activities. **Most environmental rules** tackle this challenge head on: **a governmental authority issues an authoritative command that prescribes directly and in detail** the **behavior that must be undertaken** or avoided **under pain of** coercive **sanctions** for noncompliance. In some cases, however, regulatory rules are designed to operate as default rules. Regulated entities have the option to avoid compliance with these rules by “voluntarily” undertaking a self-initiated alternative course of action that under specified conditions may be a satisfactory substitute for the otherwise applicable rule. Regulatory penalty default rules are a specialized subset of the broader category of regulatory default rules.36 A regulatory penalty default is a default rule that imposes harsh terms, creating an incentive for the regulated party to voluntarily produce an acceptable alternative—in effect, to bargain around the otherwise applicable regulatory requirement. Like their contract cousins, regulatory penalty default rules are information-forcing: to secure agency approval for the proposed alternative, the regulated party tends to disclose information it asymmetrically holds. Regulatory penalty default rules may also be information-forcing in the additional sense that they induce regulated parties to produce new information that may be required to construct the proposed alternative and secure its approval. This feature is likely to be especially useful when the regulated party does not presently hold the desired information but is the party best situated to produce it—a common occurrence in environmental regulation. Finally, regulatory penalty defaults—especially those that trigger at a future date if the regulated party fails to produce and obtain approval for an alternative in the interim—can have an action-forcing character: inducing the regulated party voluntarily to design and implement an alternative plan to avoid complying with the undesired default requirement.

## AT Perm: Do Both

Doing both leads to flawed environmental policies. The free market alone can solve the aff.

**Adler 2k** writes[[7]](#footnote-7)

Some environmentalists also see the strategic political benefit of market rhetoric and some free market policies. Ned Ford, energy chair of the Sierra Club’s Ohio chapter, argues that “by forcing the marketplace to the lowest cost solution that really works, environmentalists gain credibility and enhance the opportunity for further reduction.”24 Even President Bill Clinton has acknowledged the importance of developing a “market-based environmental-protection strategy,” noting that “Adam Smith’s invisible hand can have a green thumb.”25 Too often, however, market rhetoric merely merchandises government regulatory policies. **Environmentalist groups rarely adopt FME policies fully, opting instead to pick and choose free market precepts**. Attempts to use “market mechanisms” to reach predetermined environmental outcomes are the most common example of this tactic. The Environmental Defense Fund (EDF), for instance, advocates widespread use of “pollution credit trading” as a market-oriented policy. Setting an emission level as an environmental target, the EDF proposal allows companies the freedom to determine how best to reach it. Companies could buy and sell emission allotments among themselves to find the least-cost means to reach a goal set by government regulation. Explains EDF’s Dan Dudek, “Who is better to know [what to do] than the people who own and operate” the facility causing pollution?26 FME advocates note that **this approach will not necessarily produce sound environmental policy. The Clean Air Act Amendments** of 1990, for instance, **include** an elaborate EDF-designed **pollution-credit trading** scheme **for sulfur oxide** emissions to control acid rain. **Many companies favored the policy because**, by allowing them to select the least-cost pollution reduction measures, **they might save millions** of dollars **in compliance costs. But** was a sulfur oxide emission reduction plan needed at all? **The most extensive US study of acid rain** to date **suggests that acid rain was not a substantial threat to forests and streams**, despite environmentalist claims to the contrary. John Baden warns against market mechanisms that are used “simply as tools for the efficient delivery of environmental goals…[while] the goals themselves remain collectively determined.”27 CEI’s Fred **Smith calls such policies “market socialism**,**” as they resemble** the **efforts in Communist countries to use market mechanisms to reach politically determined production quotas**. EDF’s emission trading scheme is structurally the equivalent of the tradeable wheat production quotas established in parts of Eastern Europe. Notes Smith, “the efficiency gains of market systems occur not only in production, but in allocation as well. This means that **markets are as effective at determining what is to be done as** they are at determining **how it should be accomplished.”**

Calling for government intervention whenever the free market fails is ineffective.

**Adler 2k** writes[[8]](#footnote-8)

The fundamental problem with existing environmental laws is that they embody a command-and-control, government-knows-best mentality. Conventional policy approaches proceed from the assumption that markets “fail” to address environmental concerns. **Government intervention is called for wherever market activities impact environmental quality. Yet there is no end to** the range of **private activities which generate environmental effects,** **and centralized** regulatory **agencies are ill-equipped to handle myriad ecological interactions triggered** or impacted **by private activity**. As environmental analyst Richard Stewart noted, “**the system has grown to the point where it amounts to** nothing less than a massive effort at **Soviet-style planning** of the economy to achieve environmental goals.”1 Stewart’s description is particularly apt. **The Soviet economic model, like the conventional approach to environmental protection,** was able to produce gains for a time. Collectivized agriculture did produce wheat—at least in the beginning. Over time, however, centrally-planned systems **collapsed under their own weight, revealing a bankrupt core**. As with the economic planning of the former Soviet nations, so too with the ecological planning of the federal regulatory state. There is a growing consensus that **federal regulatory policies are too costly and ineffective**. Regulations passed in the 1960s and 1970s are no longer generating satisfactory results. In many cases, **well-intentioned regulatory systems are** even **making environmental problems worse**. Dissatisfied with the status quo approach to environmental policy, a growing number of scholars and policy analysts are turning to the marketplace to address environmental concerns. They have found in what many call “free market environmentalism” a new set of policy approaches that reconcile human needs and environmental concerns. Grounded in property rights, voluntary exchange, common law liability protections, and the rule of law, free market environmentalism seeks to integrate environmental resources into the market system. Rather than regulate each new potential risk to environmental quality, free market environmentalists advocate the creation of institutional arrangements that facilitate private solutions to environmental concerns. **Markets are not perfect, but they are superior to the regulatory alternative.**

Imposing new environmental regulations kills growth. The free market is sufficient to solve the aff.

**Brown 99** writes[[9]](#footnote-9)

As increasing pressure from visiting business leaders and local citizens attests, Hong Kong, like all wealthy countries, is encountering fears over air quality, clean water, and waste disposal. To meet these challenges Hong Kong Chief Executive CH Tung has embraced the idea of "sustainable development." In his words this requires"a fundamental change of mindset," in the way Hong Kong businesses and government operate. Around the world **policies of "sustainable development" rest on the assumption that** current economic systems are bad for the environment and that **only through more government control will environmental quality be improved**. Enacting this policy could prove costly not only for Hong Kong's environment but also for its celebrated economic success. The good news for Mr. Tung and all of Hong Kong is that the twin goals of environmental protection and increased prosperity are not as contradictory as many environmentalists would have the public believe. A recent study by **Princeton** University **economists** Gene **Grossman and** Alan **Krueger found that "**economic **growth brings** an **initial** phase of **deterioration followed by** a subsequent phase of **improvement."** They found, for instance, that light particulates, a pervasive form of air pollution, tend to increase until a country reaches per capita income levels of around $9,000. After that air pollution declines as countries become wealthier. According to Grossman and Krueger "contrary to the alarmist cries of some environmental groups, we find no evidence that economic growth does unavoidable harm to the natural habitat." This relationship between economic growth and environmental quality, which resembles an inverted-U, has been found for many other environmental indices such as water quality and waste disposal-- both important concerns for a city such as Hong Kong. Perhaps more relevant to Hong Kong's future is a recent finding that **government efforts to regulate** environmental quality**, a cornerstone of** many **"sustainable development"** proposals**, can have a substantial negative impact on** economic **growth**. Another team of **economists found that American air and water regulations** had a total cost of about $320 billion and **decreased** American gross domestic product (**GDP**) **by 5.8%.** Even well intentioned regulations can have a negative impact on economic growth and thus unintentionally on desired improvements in environmental quality. A policy of sustainable development can also be harmful in its prescription to forgo economic growth in the name of preserving resources for the future. Forcing the current generation to conserve resources for the future is like taxing the poor to give money to the rich. Imagine how different Hong Kong would look today if fifty years ago its imperial rulers had decreed that Hong Kong must not use natural resources so that they would be available for future generations. In that case Hong Kong, then with per capita incomes lower than many Third World countries today, would never have been able to achieve the remarkable economic growth that has made it one of the richest places on Earth, with individual incomes as high as those in the United States and higher than in most parts of Europe. If Hong Kong only grows at a modest pace in the future, forthcoming generations will be much wealthier than even today's residents. Such wealth will allow them to achieve standards of living and environmental quality unknown to us today. Asking current residents of Hong Kong to sacrifice economic growth and opportunity for the sake of future generations would be like the United States and Hong Kong of today asking poor African nations to turn over their resources for our enjoyment, with no compensation. In addition to asking Hong Kong to give up growth for the sake of future generations, a policy of "sustainable development" involves reducing the environmental burden Hong Kong's economy places on its neighbors. Here Hong Kong's great success is truly in evidence. Hong Kong is much wealthier than mainland China and indeed most of the rest of Asia. As such it is in a position to worry more about the impact its neighbors have on Hong Kong's environment than vice versa. By continuing the **liberal** trade and **economic policies** that **have made Hong Kong the** envy and **model for** much of **Asia**, and indeed the rest of the world, it will help promote economic growth in the region and thus improved environmental quality for its neighbors and itself. As Hong Kong moves into the new millennium it has many advantages over most of its neighbors. Its **economic freedom and** consequent **wealth will not only allow** it to enjoy **increased prosperity** in the future **but also increasing environmental quality**. **Avoiding** the **temptation to impose new** layers of government **regulation on a system that has worked so well will be the main challenge standing in its way.**

1. George Wyeth (Director, Policy and Program Change Division, U.S. Environmental Protection Agency, Office of Policy, Economics and Innovation). “"STANDARD" AND "ALTERNATIVE" ENVIRONMENTAL PROTECTION: THE CHANGING ROLE OF ENVIRONMENTAL AGENCIES.” 31 Wm. & Mary Envtl. L. & Pol'y Rev. 5 (2006) [↑](#footnote-ref-1)
2. George Wyeth (Director, Policy and Program Change Division, U.S. Environmental Protection Agency, Office of Policy, Economics and Innovation). “"STANDARD" AND "ALTERNATIVE" ENVIRONMENTAL PROTECTION: THE CHANGING ROLE OF ENVIRONMENTAL AGENCIES.” 31 Wm. & Mary Envtl. L. & Pol'y Rev. 5 (2006) [↑](#footnote-ref-2)
3. Bradley Karkkainen (Professor and Henry J. Fletcher Chair, University of Minnesota Law School). “Information-Producing Environmental Regulation.” FSU Law Review. 2006. [↑](#footnote-ref-3)
4. European Commission. “Voluntary environmental regulation may be better for industry.” Science for Environmental Policy, DG Environment News Alert Service. June 24th, 2010. http://ec.europa.eu/environment/integration/research/newsalert/pdf/201na4.pdf [↑](#footnote-ref-4)
5. George Wyeth (Director, Policy and Program Change Division, U.S. Environmental Protection Agency, Office of Policy, Economics and Innovation). “"STANDARD" AND "ALTERNATIVE" ENVIRONMENTAL PROTECTION: THE CHANGING ROLE OF ENVIRONMENTAL AGENCIES.” 31 Wm. & Mary Envtl. L. & Pol'y Rev. 5 (2006) [↑](#footnote-ref-5)
6. Bradley Karkkainen (Professor and Henry J. Fletcher Chair, University of Minnesota Law School). “Information-Producing Environmental Regulation.” FSU Law Review. 2006. [↑](#footnote-ref-6)
7. Jonathan Adler (Associate Professor, Case Western Reserve University School of Law). “Introduction to Ecology Liberty and Property.” Competitive Enterprise Institute. June 5th, 2000. http://cei.org/op-eds-and-articles/introduction-ecology-liberty-and-property [↑](#footnote-ref-7)
8. Jonathan Adler (Associate Professor, Case Western Reserve University School of Law). “Introduction to Ecology Liberty and Property.” Competitive Enterprise Institute. June 5th, 2000. http://cei.org/op-eds-and-articles/introduction-ecology-liberty-and-property [↑](#footnote-ref-8)
9. Matthew Brown (economist at the Political Economy Research Center). “Economic Growth is Good for Environmental Protection.” PERC. December 1999. http://perc.org/articles/economic-growth-good-environmental-protection [↑](#footnote-ref-9)